



House of Representatives

General Assembly

File No. 712

January Session, 2011

Substitute House Bill No. 6620

House of Representatives, May 3, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CONDOMINIUMS AND COMMON INTEREST OWNERSHIP COMMUNITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-278 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) A declarant, association, unit owner or any other person subject
4 to this chapter may bring an action to enforce a right granted or
5 obligation imposed by this chapter, the declaration or the bylaws. The
6 court may award reasonable attorney's fees and costs.

7 (b) Parties to a dispute arising under this chapter, the declaration or
8 the bylaws [may] shall agree to resolve the dispute by any form of
9 binding or nonbinding alternative dispute resolution, provided: (1) A
10 declarant may agree with the association to do so only after the period
11 of declarant control has expired; and (2) an agreement to submit to any
12 form of binding alternative dispute resolution must be in a record
13 authenticated by the parties.

14 Sec. 2. Section 20-458 of the general statutes is repealed and the
15 following is substituted in lieu thereof (*Effective October 1, 2011*):

16 (a) No contract between a person contracting to provide association
17 management services and an association which provides for the
18 management of the association shall be valid or enforceable unless the
19 contract is in writing and:

20 (1) Provides that the person contracting to provide management
21 services shall be registered as provided in sections 20-450 to 20-462,
22 inclusive, and shall obtain a bond as provided in section 20-460; and

23 (2) Provides that the person contracting to provide management
24 services shall not issue a check on behalf of the association or transfer
25 moneys exceeding a specified amount determined by the association
26 without the written approval of an officer designated by the
27 association; and

28 (3) Provides that the person contracting to provide management
29 services shall not enter into any contract binding the association
30 exceeding a specified amount determined by the association, except in
31 the case of an emergency, without the written approval of an officer
32 designated by the association.

33 (b) No contract to provide management services [may be] shall:

34 (1) Be sold or assigned to another person without the approval of a
35 majority of the executive board of the association; or

36 (2) Include any clause, covenant or agreement that indemnifies or
37 holds harmless the person contracting to provide management services
38 from or against any liability for loss or damage resulting from such
39 person's negligence or intentional acts or omissions.

40 Sec. 3. Subsection (b) of section 47-255 of the general statutes is
41 repealed and the following is substituted in lieu thereof (*Effective*
42 *October 1, 2011*):

43 (b) In the case of a [building that contains] common interest
44 community having attached units that are divided either by horizontal
45 boundaries described in the declaration, or by vertical boundaries that
46 comprise or are located within common walls between units, the
47 insurance maintained under subdivision (1) of subsection (a) of this
48 section, to the extent reasonably available, shall include the attached
49 units, and all improvements and betterments installed by [unit]
50 owners of the attached units, unless the declaration limits the
51 association's authority to insure all improvements and betterments or
52 the executive board decides, after giving notice and an opportunity for
53 unit owners to comment, not to insure such improvements and
54 betterments. In the case of common interest communities containing
55 more than twelve units, unless the association insures all
56 improvements and betterments, the association shall:

57 (1) Prepare and maintain a schedule of the standard fixtures,
58 improvements and betterments in the units, including any standard
59 wall, floor and ceiling coverings covered by the association's insurance
60 policy;

61 (2) Provide such schedule at least annually to the unit owners in
62 order to enable unit owners to coordinate their homeowners insurance
63 coverage with the coverage afforded by the association's insurance
64 policy; and

65 (3) Include such schedule in any resale certificate prepared pursuant
66 to section 47-270.

67 Sec. 4. Subsection (e) of section 47-257 of the general statutes is
68 repealed and the following is substituted in lieu thereof (*Effective*
69 *October 1, 2011*):

70 (e) If any common expense is caused by the wilful misconduct of, or
71 failure to comply with a written maintenance standard promulgated
72 by the association by, [or gross negligence of] any unit owner or tenant
73 or a guest or invitee of a unit owner or tenant, the association may,
74 after notice and hearing, assess the portion of that common expense in

75 excess of any insurance proceeds received by the association under its
76 insurance policy, whether that portion results from the application of a
77 deductible or otherwise, exclusively against that owner's unit.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	47-278
Sec. 2	<i>October 1, 2011</i>	20-458
Sec. 3	<i>October 1, 2011</i>	47-255(b)
Sec. 4	<i>October 1, 2011</i>	47-257(e)

Section 1	<i>October 1, 2011</i>	47-278
Sec. 2	<i>October 1, 2011</i>	20-458
Sec. 3	<i>October 1, 2011</i>	47-255(b)
Sec. 4	<i>October 1, 2011</i>	47-257(e)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill impacts non-governmental entities and therefore has no fiscal impact upon the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 6620****AN ACT CONCERNING CONDOMINIUMS AND COMMON INTEREST OWNERSHIP COMMUNITIES.****SUMMARY:**

This bill makes the following changes to the Common Interest Ownership Act (CIOA). It:

1. requires, rather than allows, parties with a dispute under CIOA or the association's declaration or bylaws to agree to resolve the dispute through alternative dispute resolution, as long as certain conditions are met;
2. specifies that insurance requirements for units divided by horizontal or vertical boundaries apply only to attached units; and
3. eliminates gross negligence as a ground for an association to assess a specific unit owner for the portion of common expenses above any insurance proceeds the association receives.

The bill also prohibits a contract between a common interest community association and a person providing association management services from including any clause, covenant, or agreement that indemnifies or holds the association manager harmless against any liability for loss or damage resulting from the manager's negligence or intentional acts or omissions (§ 2).

EFFECTIVE DATE: October 1, 2011

§ 1 — ALTERNATIVE DISPUTE RESOLUTION

Under current law, parties to a dispute arising under CIOA or an association's declaration or bylaws may agree to resolve the dispute by

binding or nonbinding alternative dispute resolution, provided that (1) a declarant (developer) may agree to do so only after the period of declarant control has expired and (2) the agreement must be in a record the parties authenticate. The bill requires, rather than allows, parties to agree to resolve such a dispute through alternative dispute resolution if these same conditions are met.

Existing law, unchanged by the bill, also allows anyone subject to CIOA to bring a court action to enforce a right or obligation imposed by CIOA, the declaration, or bylaws.

§ 3 — INSURANCE REQUIREMENTS FOR UNITS DIVIDED BY VERTICAL OR HORIZONTAL BOUNDARIES

Current law requires an association to obtain property insurance for buildings in the common interest community that contain units with horizontal (i.e., stacked units) or vertical boundaries (i.e., side-by-side units) that comprise or are located within common walls between units. The insurance on such units must include coverage for improvements unit owners installed unless the (1) declaration limits the association's authority to do so or (2) executive board decides not to insure them after giving notice and an opportunity for unit owners to comment. The bill clarifies that these requirements apply to attached units.

By law, for common interest communities containing more than 12 units, unless the association insures all improvements and betterments, the association must:

1. prepare and maintain a schedule of the standard fixtures, improvements, and betterments in the units, including any standard wall, floor, and ceiling coverings covered by the association's insurance policy;
2. provide the schedule at least annually to the unit owners to enable them to coordinate their homeowners insurance coverage with the association's insurance policy; and

3. include the schedule in the resale certificate required by law.

§ 4 — ASSESSMENTS AGAINST SPECIFIC UNIT

By law, an association can, after notice and hearing, assess a specific unit owner for the portion of certain common expenses above any insurance proceeds the association received, whether or not that portion results from the application of a deductible. Currently, this applies to any common expense caused by willful misconduct, gross negligence, or failure to comply with a written maintenance standard the association adopts by a unit owner, a unit owner's tenant, or the owner's or tenant's guest or invitee. The bill excludes from this right damage caused by the gross negligence of any such people.

BACKGROUND

Common Interest Community

Under CIOA, a "common interest community" includes condominiums, cooperatives, and other property described in a declaration under which a person, by virtue of owning a unit, is obligated to pay (1) real property taxes on, (2) insurance premiums on, (3) for maintenance of, (4) for improvement of, or (5) for services or expenses related to, common elements or real property other than that individually owned unit described in the declaration (CGS § 47-202).

Common Interest Ownership Act

Generally, CIOA applies to common interest communities created in Connecticut on or after January 1, 1984. Certain provisions of CIOA (including all of the provisions that this bill amends), to the extent necessary to construe these provisions, apply to common interest communities created in Connecticut before January 1, 1984. But they apply to such older communities only with respect to events and circumstances that occur after January 1, 1984, and do not invalidate existing provisions of the communities' declaration, bylaws, or surveys or plans (CGS §§ 47-214, -216).

Condominiums created before January 1, 1984 can amend their governing instruments (declaration, bylaws, surveys, or plans) to

conform to portions of CIOA that do not automatically apply (CGS § 47-218).

Community Association Manager Contracts

The law requires a contract between a residential common interest community association and a person providing association management services to contain certain provisions in order to be valid and enforceable. Such contracts must be in writing and:

1. require a community association manager to be registered with the Department of Consumer Protection and covered by a fidelity bond;
2. prohibit the community association manager, without the written approval of an officer the association designates, from (a) issuing checks on the association's behalf, (b) transferring funds exceeding an amount determined by the association, or (c) entering into a contract binding the association exceeding an amount determined by the association, except in an emergency; and
3. prohibit the contract from being sold or assigned to another person without the approval of a majority of the association's executive board (CGS § 20-458).

Related Bills

HB 6234 (File 9) contains the same provision regarding community association manager contracts. It also eliminates an association's right under CIOA to assess a specific unit owner for the portion of common expenses above any insurance proceeds the association received for damage caused by the (1) failure to comply with a written maintenance standard the association adopts or (2) willful misconduct or gross negligence of any unit owner's tenant or the owner's or tenant's guest or invitee.

sHB 6237 (File 53) requires a community association manager acting on behalf of a residential common interest community to (1) obtain rate

quotes from at least two different insurance agencies for certain insurance policies required under CIOA and (2) provide these quotes to the association's executive board.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 43 Nay 1 (04/14/2011)